

Before the
Federal Communications Commission
Washington, D.C. 20554

JUL 29 2003

In the Matter of

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Quanah, Archer City, Converse, Flatonia,
Georgetown, Ingram, Keller, Knox City,
Lakeway, Lago Vista, Llano, McQueeney,
Nolanville, San Antonio, Seymour, Waco and
Wellington, Texas, and Ardmore, Durant,
Elk City, Healdton, Lawton and Purcell,
Oklahoma.)

MM Docket No. 00-148
RM-9939
RM-10198

To: Chief, Audio Division
Media Bureau

REPLY TO OPPOSITION

Rawhide Radio, LLC, Capstar TX Limited Partnership, and Clear Channel Broadcasting Licenses, Inc (collectively "Joint Petitioners"), by their counsel, and pursuant to Section 1.429 of the Commission's Rules, hereby reply to the opposition filed by Texas Grace Communications ("Texas Grace") to its Petition for Partial Reconsideration in the above-captioned proceeding.¹ As will be shown, Texas Grace bases its opposition on incorrect factual assumptions

1. First, Texas Grace assumes that the Joint Petitioners intend to move Station KLAQ(FM), Durant, Oklahoma into the Dallas market. This is not correct. The Petition for Partial Reconsideration involves only a *portion* of the original Counterproposal, and does not involve KLAQ in any way. Because the Petition for Partial Reconsideration does not involve

¹ The Petition for Partial Reconsideration was filed on June 16, 2003. Notice of the filing appeared in the Public Notice of July 7, 2003 (Report No. 2616) and was published in the Federal Register on July 14, 2003. Oppositions are currently due on July 29, 2003 and replies are due on August 8, 2003. Two other oppositions were also filed early. The Joint Petitioners intend to respond to all other oppositions by the reply date.

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KLAK, it also does not involve KRZB in any way. It does not involve the KRZB Channel 248C2 construction permit (BMPH-19990217IB), nor does it involve the KRZB Channel 248C1 allotment. It has nothing whatsoever to do with any plans Texas Grace may have for Station KRZB – at least, not any plans that Texas Grace has made public.

2. Nevertheless, if Texas Grace believes that a future KLAK relocation filing could somehow have an impact on KRZB, that belief can be put to rest. On May 23, 2003, KLAK filed a separate petition to relocate the station to Whitewright, Texas. That proposal involves no other stations and has no intended impact on Station KRZB's Class C2 permit or Class C1 allotment.

3. Second, Texas Grace argues that the Joint Petitioners' Counterproposal, filed on October 10, 2000, should have protected the construction permit issued to Texas Grace for Channel 248C2 at Archer City, Texas, instead of the Channel 248C1 allotment that is currently listed in the FM Table of Allotments for KRZB.² However, contrary to Texas Grace's belief, the grant of the permit did not automatically cause the deletion of Channel 248C1 from Archer City. *See Revision of 73 3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment*, 4 FCC Rcd 2413, 2414-15 at para. 14 (1989) and *Winslow, Camp Verde, Mayer and Sun City West, Arizona, MO&O*, 16 FCC Rcd 9551 (2001). The Joint Parties were certainly required to protect the Class C1 allotment, and indeed, the Commission dismissed the Counterproposal specifically because it failed to protect the Class C1 allotment, not because of any problem with respect to the Class C2 permit. *Report and Order*, 18 FCC Rcd 9495 (2003). The Joint Parties did not contest that aspect of the dismissal.

² That channel was requested by Texas Grace and granted on December 31, 1999.

4 The Commission recently reconfirmed that the Archer City Class C1 allotment is still entitled to protection by issuing a rule making proposal to delete Channel 248C1 from Archer City in view of the lack of interest from Texas Grace in applying for the Class C1 channel.³ In the Commission's view, as long as Channel 248C1 remained in the Table of Allotments, Texas Grace could have applied for the Class C1 channel, even during the pendency of MM Docket No. 00-148. The allotment remains valid unless and until its deletion becomes final, and until that time it must be protected. *See Winslow, Arizona, et al., supra*

5 As discussed above, the Petition for Partial Reconsideration has no impact whatsoever on Station KRZB. Because there is no impact on Station KRZB, there is absolutely no reason for Texas Grace to have filed its attack on the Petition for Partial Reconsideration. There is no reason for Texas Grace to be involved in this proceeding at all – Texas Grace is not affected by the outcome of the Petition for Partial Reconsideration one way or the other. Moreover, there is no reason for Texas Grace to have singled out *one* of the co-counsel to *one* of the Joint Parties for a personal attack. Those allegations are reckless and without any basis in fact, and need not be dignified with a response.

³ 18 FCC Rcd 9498 (2003). On July 25, 2003 (DA 03-2468), the Commission released its *Report and Order* deleting Channel 248C1 and allotting Channel 248C2 to Archer City, Texas.

For the foregoing reasons, the Commission should reject the arguments set forth in the opposition of Texas Grace to the Petition for Partial Reconsideration.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Lisa Balzer, a secretary in the law firm of Vinson & Elkins, do hereby certify that on this 29th day of July, 2003, I caused copies of the foregoing "Reply to Opposition" to be mailed, first class postage prepaid, or hand delivered, addressed to the following persons:

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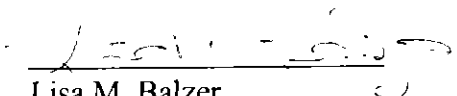
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